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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/596,303	01/26/2007	Hiromi Matsuzaki	P30093	5121
7055 7590 11/01/2007 GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191		EXAMINER		
			WALKER, AMANDA H	
			ART UNIT	PAPER NUMBER
			4134	
		•		
			NOTIFICATION DATE	DELIVERY MODE
-			11/01/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gbpatent@gbpatent.com pto@gbpatent.com

			511		
		Application No.	Applicant(s)		
		10/596,303	MATSUZAKI ET AL.		
	Office Action Summary	Examiner	Art Unit		
		Amanda H. Walker	4134		
Period fo	The MAILING DATE of this communication a or Reply	appears on the cover sheet with	the correspondence address		
WHIC - Exte after - If NC - Failu Any	CORTENED STATUTORY PERIOD FOR REF CHEVER IS LONGER, FROM THE MAILING ensions of time may be available under the provisions of 37 CFR SIX (6) MONTHS from the mailing date of this communication. Depriod for reply is specified above, the maximum statutory period are to reply within the set or extended period for reply will, by state reply received by the Office later than three months after the mailed patent term adjustment. See 37 CFR 1.704(b).	DATE OF THIS COMMUNIC. 1.136(a). In no event, however, may a report of will apply and will expire SIX (6) MONT tute, cause the application to become ABA	ATION. ply be timely filed HS from the mailing date of this communication. INDONED (35 U.S.C. § 133).		
Status					
1)⊠	Responsive to communication(s) filed on 08	June 2006.			
2a) <u></u>	This action is FINAL . 2b)⊠ Th	his action is non-final.			
3)	☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is				
	closed in accordance with the practice unde	r <i>Ex parte Quayle</i> , 1935 C.D.	11, 453 O.G. 213.		
Disposit	ion of Claims				
4)🖂	Claim(s) 1-21 is/are pending in the application	on.			
·	4a) Of the above claim(s) is/are withdo				
5)	Claim(s) is/are allowed.				
6)⊠	Claim(s) <u>1-21</u> is/are rejected.				
7)	Claim(s) is/are objected to.	•			
8)□	Claim(s) are subject to restriction and	d/or election requirement.			
Applicat	ion Papers		•		
9)[The specification is objected to by the Exami	ner.			
· · · · ·	The drawing(s) filed on <u>08 June 2006</u> is/are:		ted to by the Examiner.		
	Applicant may not request that any objection to the	he drawing(s) be held in abeyanc	e. See 37 CFR 1.85(a).		
	Replacement drawing sheet(s) including the corre	ection is required if the drawing(s) is objected to. See 37 CFR 1.121(d).		
11)	The oath or declaration is objected to by the	Examiner. Note the attached	Office Action or form PTO-152.		
Priority (under 35 U.S.C. § 119				
	Acknowledgment is made of a claim for foreig ☑ All b) ☐ Some * c) ☐ None of:	gn priority under 35 U.S.C. §	119(a)-(d) or (f).		
	1. Certified copies of the priority docume	ents have been received.			
	2. Certified copies of the priority docume	•	-		
	3. Copies of the certified copies of the pr	•	eceived in this National Stage		
	application from the International Bure	• • • • • • • • • • • • • • • • • • • •			
" (See the attached detailed Office action for a li	st of the certified copies not re	eceived.		
Attachmen	• •				
1) Notic	ce of References Cited (PTO-892) ce of Draftsperson's Patent Drawing Review (PTO-948)		mmary (PTO-413) /Mail Date		
3) 🔀 Infor	e of Draπsperson's Patent Drawing Review (PTO-948) mation Disclosure Statement(s) (PTO/SB/08) Province No(s)/Mail Date 9-8-06.		ormal Patent Application		

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United

Claims 1-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Hiraide et al. (JP 2003-135583). A machine translation was obtained from the Japanese Patent Office website and is attached. References refer to the machine translation.

Regarding Claim 1: Hiraide et al. teaches a bone replacement material 100 (representative drawing) that is pellet shaped and defined by a plurality of surfaces. The material has a porosity of less than 75% (para. 0022).

Considering that Hiraide et al. teaches all of the claimed materials and collapsing strength, the other claimed limitations are inherent (MPEP 2112.01 I).

Regarding Claims 2-8 and 14: Hiraide et al. teaches that the pellets have roughly prismatic shapes. Some are hexahedral/rectangular, some pentahedral/triangular, and some trihedral/cylindrical (representative figure). These pellets inherently have cut-off points and chamfered surfaces.

Regarding Claim 9-10 and 21: Hiraide et al. teaches that each polyhedral pellet is inherently defined by a plurality of surfaces. The pellets include pairs of opposite

surfaces that are inclined with respect to each other, at an inherently predetermined angle (representative figure). The figure indicates that the surfaces are inherently inclined at angles that would fall between 10-60 degrees.

Regarding Claims 11-13: Hiraide et al. teaches that the diameters of each pellet 100 average between 0.0001-10 mm (para 0012). Therefore, it is submitted that at least one of the pellets will inherently have a longest edge between 5-10 mm and a shortest edge between 2-5 mm. The volume would therefore inherently be between 13-239 mm³.

Regarding Claims 15-16 and 20: The material taught by Hiraide et al. is inherently packable to at least some degree and able to be introduced into a cavity.

Regarding Claims 17-19: Hiraide et al. teaches that the material is a calcium phosphate based compound with a Ca/P ratio of 1-2 (para 0012).

Other prior art considered applicable to the instant claims but not used in these rejections can be found in the enclosed document entitled "Notice of References Cited".

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amanda H. Walker whose telephone number is (571)270-3296. The examiner can normally be reached on 9-4, M-Th, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Eashoo can be reached on (571) 272-1197. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AHW 10-16-07

MARK EASHOO, PH.D.
SUPERVISORY PATENT EXAMINER

29 oct 5